

Listed below are questions regarding the Edna Bay incorporation petition that DCRA staff reviewed and answered from a community member in Edna Bay. DCRA responses to the questions asked are in red.

1. I spoke with Jon Boling regarding AS 29.60.865. and the notice posted by the second class city promoters which I sent to you and have attached again here. Jon spoke with L Blood and responded to me with this e-mail.
Hi

I spoke with Lawrence at Alaska DCCED about this. He tells me that unincorporated communities like Edna Bay, if in a borough, are eligible to receive (under current program funding) about \$20,200 per year if three of the services listed at 29.60.865 are provided in the community. The payment comes from the borough, from the State of Alaska. The borough then presumably passes the payment on to the unincorporated community. Currently Edna Bay receives a higher revenue sharing payment and I am told has no obligation to provide any specific service to receive the funding. All that apparently changes under any subsequent borough, although some or all of that change might be mitigated if a borough charter accounts for payments to unorganized communities.

I am not sure if I answered your specific question. If not, send me an e-mail back.

Jon

I believe he is saying that the state pays the borough 20,200.00 and the borough is to pass that on to the community to provide services. That this payment is all the borough is obligated to provide to the community unless with a charter they provide for some extra funds.
This moves right into my next question.

There was no attachment with your e-mail, but I think I can still answer your questions. My understanding is that second class cities do get more Community Revenue Sharing (CRS) than non-profit community associations would. If you are within a borough, a second class city is still fully eligible for CRS. A community association in such a situation may be eligible for CRS still, but I believe that is at the discretion of the borough, depending on things such as services being provided by the community association and/or borough. As Jon said, I believe that would be specified in the charter or in the code. Lawrence has recently sent a very detailed e-mail to the Edna Bay Community Association about this topic. I will be happy to send you a copy of that if you would like, though I think it is already their intention to share it with the community.

2. The Govt of Alaska is committed to a very loose rein on cities and boroughs, providing very general rules to govern how they run their respective municipalities. The Govt also seems to believe that less govt is best govt in that their goal is to have borough rule and no cities. Like Petersburg has dissolved the city and are now a borough removing a layer of government.

all this being so it seems that the borough has very little responsibility to the cities and communities within it's boundaries. should edna bay remain an unincorporated community it appears that the borough should one form has no further responsibilities to our community than to provide a school, tax us and do zoning and planning. (and maybe as in Q 1 pass on the state funds to provide emergency services). It appears that we would have very few rights or services from the borough who can collect revenue from us with no obligation to provide services.

Please address this and tell me generally what happens to communities like ours when swallowed by a borough. We need to choose between what appears to be the devil and the deep blue sea!

I believe what you are referring to is the Alaska Constitution regarding local government, Article 10.1: "The Purpose of this article is to provide for maximum local self-government with a minimum of local government"

units.” I don’t believe this is specifically saying “no cities”, and Alaska Statute indeed does provide for extensive power and incorporation of cities, along with boroughs. Though Petersburg did dissolve the City of Petersburg, the City of Kupreanof does still exist, within the Petersburg borough. Thus, the same number of governmental units still exists now, after borough incorporation.

I’m not sure I know how to answer to your second and third paragraphs though. I try to remain neutral when it comes to opinion-related issues, particularly as I believe what is right for one community is not necessarily what is right for another. However, I am happy to try to address any more specific questions pertaining to these issues you bring up. If you are interested in speaking with a community which has gone through this sort of incorporation, I might have a few suggestions here:

- Meyer’s Chuck was a community association which is now within the boundaries of the Wrangell Borough.
- Dyea is a traditional community within the Skagway Borough.
- The City of Kupreanof is a second class city within the newly-formed Petersburg Borough.
- The City of Saxman is a second class city within the Ketchikan Gateway Borough.
- The City of Ketchikan is a home rule city within the Ketchikan Gateway Borough.
- The Kenai Borough has several community associations which they provide CRS moneys to, such as Nikolaevsk, Anchor Point, Cooper Landing, Kasilof, Nikiski, and several others.

3. I have really never paid much attention to politics so..... reading through the Powers of a city/borough I read about ordinances. It seems that these are laws enacted by the city council without voter approval with the exception of eminent domain and taxes. What about special assessments? What are bonds?

You are basically right, though I would like to elaborate a bit... ordinances are the laws of your city. A municipality is a representative democracy form of government. So the people elect representatives to sit on the city council and/or borough assembly, and those representatives are empowered to adopt ordinances and resolutions for the municipality. If the community is unhappy with the decisions being made by the elected officials, their options are basically to un-elect them in the next election, or to attempt to re-call them. As you said, there are certain items which must go to the voters for consideration, such as taxes and local alcohol options. Voters or representatives can also force an issue to the ballot through the initiative or referendum process, which is laid out in Title 29. Additionally, all ordinances are required to go through a public process including introduction, public hearings, and second readings, all of which are a part of public meetings, held to the public notification and public hearing requirements of the Open Meetings Act.

Special assessments are discussed in Chapter 29.46 of Alaska Statute. They are essentially for capital improvements in a specific district or service area. They are also sometimes called Local Improvement Districts (LID), and are intended to help fund local improvements. Bonds are a method of essentially getting a sort of loan to do these kinds of works. It is generally difficult for smaller communities without a concrete economic base to get bonds. The City and Borough of Juneau recently got a new bond to do capital improvements. But I have heard of other smaller communities being turned down for bonds, because it was felt they did not have the ability to pay it back in the long-term.

Just an FYI, generally, a city the size of Edna Bay will have just the one service area (the whole community is the one service area). Multiple service areas are seen more in bigger municipalities. A POW Borough would most likely have several service areas, and we could predict that perhaps the community of “Edna Bay” could be one of them, as an example.

4. AS 29.35.070 (c) is this saying that utilities owned by the municipality do not have to be reasonable in their rates?

The idea here is that municipalities are not for-profit entities, and therefore, they will be providing for reasonable rates. They must go through the public process to change utility rates. In my experience, municipalities tend to charge much less than they should for utilities in order to break even. I don't believe I have ever seen a municipality charge customers more than what it cost to run the utility. I believe this is because municipal utilities are run by a public entity, by public representatives, in a non-profit capacity. Additionally, raising rates has to go through a public process, subject to Open Meetings Act requirements.

5. What is a good estimate of monetary burden for basic city function for a community like ours.... 50 residents, 5 miles of roads with 2 bridges, harbor, (wishing for 2)

I have thought through the communities I work with, and have been unable to find a community of 50 people who are hoping to provide the exact services you are looking at. Our website keeps budgets for all municipalities. Those can be found here: http://commerce.alaska.gov/dca/commfin/CF_FinRec.cfm. This information might help you piece together some of the costs of the things you are looking at. Port Alexander has a similar population size, but has far fewer roads/bridges/harbors services than you are looking at; though they do provide other services Edna Bay would not at this time, such as water. That might be a good place to start.

6. the petition for 2nd class city has requested 19 square miles of USFS land. What are the pros and cons to this? What burden of responsibility is placed on the community? What is the jurisdiction? can we regulate what the USFS can and can't do with their holdings inside our boundaries? Can they require that we provide upkeep of the roads? Why would these lands be an asset to our community? On the same note we have requested 4.5 square miles of tidelands and submerged land. can we even do that? I thought that tidelands and submerged land were only deeded to a city as they were able to show need and use? Also why would we need these "lands" ie how would they improve the community and life here? and what are the responsibilities that go with ownership?

I tried to contact the USDA FS Alaska Regional Office (907-586-8806). They said the best person to talk to about these questions is Richard Stall 406-563-4335, who is based out of Montana. Unfortunately, I called too late in the day and with the time difference, I was not able to contact him. However, please feel free to give him a call and ask him any USFS-related questions.

Alaska Statute Section 38.05.825 discusses municipal ownership of tideland and submerged land, <http://www.touchngo.com/lglcntr/akstats/Statutes/Title38/Chapter05/Section825.htm>. This section discusses requirements, rights, and powers. However, it is probably not going to outline for you the pros and cons of municipal ownership of tidal and submerged land. I'm not sure I would be able to answer to that. But please give this a read and let me know if you have any further questions pertaining to this item.

7. I have received a notice that there are 90 second class cities in alaska and that only 2 of them have a city tax. Can you verify this information?

This is definitely not true, I'm not sure what exactly the source is of the information. At this website, you can find a list of all municipal taxes for 2012. It lists property taxes, sales taxes, and special taxes. It is possible you are referencing property taxes only... very few second class cities have a property tax (Eagle, Houston, Kachemak, and Whittier).

http://commerce.alaska.gov/dca/osa/pub/12AKTax_Tab1.pdf

8. This same notice stated that State oversight of our community will be the same as a second class city as it is now. Mr Williams of the boundary commission stated that we would have greater oversight. Someone I talked to in your office said the same. With greater interest from other state agencies as we would be an agency of the state also. Can you elaborate?

Could you let me know what type of oversight you're referring to exactly? I'm happy to look into that, just let me know what area of oversight you're most interested in. Thanks.

9. One power of the city is planning and zoning, are there grandfather rights for property owners with commercial enterprises who's property is zoned residential? and where in the statutes or admin code would the answer be?

A second class city may choose whether or not to exercise planning and zoning powers. If they choose to do so, there are a handful of requirements there-in. One, obviously, is zoning. Zoning processes are just like every other process of the city. It must be done in compliance with the Open Meetings Act, with public input and in the best interest of the public. I do not see anything explicitly related to grandfather rights. However, that can be built into the city's process if the city chooses to do so. Alaska Statute Chapter 29.40 gives details about the processes and requirements, which will give you some ideas for where citizens will have an opportunity to weigh in and to appeal decisions. Just as an aside, a borough has priority over planning and zoning powers. If you are a city within a borough, the borough may choose to pass those powers on to the city, but are not required to do so.

I hope all of this information is helpful. I do apologize for the delay. I would have liked to elaborate a bit more in a few areas, so please let me know if you want more information here or there. And please do give me some more information about what you are looking for on question 8. Thank you